

TWENTY-SEVENTH DAY - FEBRUARY 20, 2002

LEGISLATIVE JOURNAL

**NINETY-SEVENTH LEGISLATURE
SECOND SESSION**

TWENTY-SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, February 20, 2002

PRAYER

The prayer was offered by Pastor Matt Geiger, First Plymouth Congregational Church, Lincoln, Nebraska.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senator Tyson who was excused; and Senators Brashear, Brown, and Byars who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the twenty-sixth day was approved.

**STANDING COMMITTEE REPORTS
Revenue**

LEGISLATIVE BILL 1125. Placed on General File.

LEGISLATIVE BILL 1136. Placed on General File as amended.
Standing Committee amendment to LB 1136:
AM2782

- 1 1. On page 12, line 12, after "(d)" insert "The number
- 2 of employees of the taxpayer employed at locations within the state
- 3 and the average wage of such employees on the date of the
- 4 application;
- 5 (e)"; and in line 17 strike "(e)", show as stricken, and
- 6 insert "(f)".
- 7 2. On page 13, line 18, after "project" insert "and
- 8 annually provide the employment and average wage information
- 9 required by section 4 of this act to the Department of Revenue".

LEGISLATIVE BILL 28. Indefinitely postponed.
LEGISLATIVE BILL 139. Indefinitely postponed.
LEGISLATIVE BILL 498. Indefinitely postponed.
LEGISLATIVE BILL 502. Indefinitely postponed.
LEGISLATIVE BILL 510. Indefinitely postponed.
LEGISLATIVE BILL 725. Indefinitely postponed.
LEGISLATIVE BILL 841. Indefinitely postponed.
LEGISLATIVE BILL 893. Indefinitely postponed.
LEGISLATIVE BILL 1036. Indefinitely postponed.
LEGISLATIVE BILL 1037. Indefinitely postponed.
LEGISLATIVE BILL 1053. Indefinitely postponed.
LEGISLATIVE BILL 1087. Indefinitely postponed.
LEGISLATIVE BILL 1124. Indefinitely postponed.
LEGISLATIVE BILL 1160. Indefinitely postponed.
LEGISLATIVE BILL 1178. Indefinitely postponed.
LEGISLATIVE BILL 1184. Indefinitely postponed.
LEGISLATIVE BILL 1188. Indefinitely postponed.
LEGISLATIVE BILL 1284. Indefinitely postponed.

(Signed) William R. Wickersham, Chairperson

Transportation and Telecommunications

LEGISLATIVE BILL 1228. Placed on General File.

(Signed) Curt Bromm, Chairperson

ANNOUNCEMENT

The Transportation and Telecommunications Committee designates LB 1081 and LB 1105 as its priority bills.

AMENDMENT - Print in Journal

Senator Coordsen filed the following amendment to LB 58:
AM2811

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 "Section 1. Section 44-1540, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 44-1540. Any of the following acts or practices by an
- 6 insurer, if committed in violation of section 44-1539, shall be an
- 7 unfair claims settlement practice:
- 8 (1) Knowingly misrepresenting to claimants and insureds
- 9 relevant facts or policy provisions relating to coverages at issue;
- 10 (2) Failing to acknowledge with reasonable promptness
- 11 pertinent communications with respect to claims arising under its
- 12 policies;
- 13 (3) Failing to adopt and implement reasonable standards

14 for the prompt investigation and settlement of claims arising under
 15 its policies;
 16 (4) Not attempting in good faith to effectuate prompt,
 17 fair, and equitable settlement of claims submitted in which
 18 liability has become reasonably clear;
 19 (5) Not attempting in good faith to effectuate prompt,
 20 fair, and equitable settlement of property and casualty claims (a)
 21 in which coverage and the amount of the loss are reasonably clear
 22 and (b) for loss of tangible personal property within real property
 23 which is insured by a policy subject to section 44-501.02 and which
 24 is wholly destroyed by fire, tornado, windstorm, lightning, or
 1 explosion;
 2 (6) Compelling insureds or beneficiaries to institute
 3 litigation to recover amounts due under its policies by offering
 4 substantially less than the amounts ultimately recovered in
 5 litigation brought by them;
 6 (7) Refusing to pay claims without conducting a
 7 reasonable investigation;
 8 (8) Failing to affirm or deny coverage of a claim within
 9 a reasonable time after having completed its investigation related
 10 to such claim;
 11 (9) Attempting to settle a claim for less than the amount
 12 to which a reasonable person would believe the insured or
 13 beneficiary was entitled by reference to written or printed
 14 advertising material accompanying or made part of an application;
 15 (10) Attempting to settle claims on the basis of an
 16 application which was materially altered without notice to or
 17 knowledge or consent of the insured;
 18 (11) Making a claims payment to an insured or beneficiary
 19 without indicating the coverage under which each payment is being
 20 made;
 21 (12) Unreasonably delaying the investigation or payment
 22 of claims by requiring both a formal proof-of-loss form and
 23 subsequent verification that would result in duplication of
 24 information and verification appearing in the formal proof-of-loss
 25 form;
 26 (13) Failing, in the case of the denial of a claim or the
 27 offer of a compromise settlement, to promptly provide a reasonable
 1 and accurate explanation of the basis for such action;
 2 (14) Failing to provide forms necessary to present claims
 3 with reasonable explanations regarding their use within fifteen
 4 working days of a request;
 5 (15) Failing to adopt and implement reasonable standards
 6 to assure that the repairs of a repairer owned by or affiliated
 7 with the insurer are performed in a skillful manner. For purposes
 8 of this subdivision, a repairer is affiliated with the insurer if
 9 there is a preexisting arrangement, understanding, agreement, or
 10 contract between the insurer and repairer for services in
 11 connection with claims on policies issued by the insurer; and

12 (16) Requiring the insured or claimant to use a
 13 particular company or location for motor vehicle repair. Nothing
 14 in this subdivision shall prohibit an insurer from entering into
 15 discount agreements with companies and locations for motor vehicle
 16 repair or otherwise entering into any business arrangements or
 17 affiliations which reduce the cost of motor vehicle repair if the
 18 insured or claimant has the right to use a particular company or
 19 reasonably available location for motor vehicle repair. If the
 20 insured or claimant chooses to use a particular company or location
 21 other than the one providing the lowest estimate for like kind and
 22 quality motor vehicle repair, the insurer shall not be liable for
 23 any cost exceeding the lowest estimate. For purposes of this
 24 subdivision, motor vehicle repair shall include motor vehicle glass
 25 replacement and motor vehicle glass repair.
 26 Sec. 2. Original section 44-1540, Reissue Revised
 27 Statutes of Nebraska, is repealed."

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits this report of the following legislative bill:

LB/LR Committee
 LB 1308 Business and Labor

(Signed) George Coordsen, Chairperson
 Legislative Council
 Executive Board

GENERAL FILE

LEGISLATIVE RESOLUTION 6CA. The Schimek pending amendment, FA858, found on page 647, was renewed.

SPEAKER KRISTENSEN PRESIDING

Senator Schimek withdrew her amendment.

Senator Beutler offered the following amendment:
 AM2819

- 1 1. Strike original sections 1 and 2 and insert the
- 2 following new sections:
- 3 "Section 1. At the general election in November 2002 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 24:
- 8 III-24 "(1) Except as provided in this section, the
- 9 Legislature shall not authorize any game of chance or any lottery

10 or gift enterprise when the consideration for a chance to
11 participate involves the payment of money for the purchase of
12 property, services, or a chance or admission ticket or requires an
13 expenditure of substantial effort or time.

14 (2) The Legislature may authorize and regulate a state
15 lottery pursuant to subsection (3) of this section and other
16 lotteries, raffles, and gift enterprises which are intended solely
17 as business promotions or the proceeds of which are to be used
18 solely for charitable or community betterment purposes without
19 profit to the promoter of such lotteries, raffles, or gift
20 enterprises.

21 (3) The Legislature may establish a lottery to be
22 operated and regulated by the State of Nebraska. The proceeds of
23 the lottery shall be appropriated by the Legislature for the costs
24 of establishing and maintaining the lottery and for other purposes
1 as directed by the Legislature. No lottery game shall be conducted
2 as part of the lottery unless the type of game has been approved by
3 a majority of the members of the Legislature.

4 (4) Nothing in this section shall be construed to
5 prohibit (a) the enactment of laws providing for the licensing and
6 regulation of wagering on the results of horseraces, wherever run,
7 either within or outside of the state, by the parimutuel method,
8 when such wagering is conducted by licensees within a licensed
9 racetrack enclosure or (b) the enactment of laws providing for the
10 licensing and regulation of bingo games conducted by nonprofit
11 associations which have been in existence for a period of five
12 years immediately preceding the application for license, except
13 that bingo games cannot be conducted by agents or lessees of such
14 associations on a percentage basis.

15 (5) For purposes of this section:

16 (a) Gaming means any game of chance played with cards,
17 dice, equipment, or a machine for money, credit, or any
18 representative of value if the game is not included within the
19 definition of Class I or Class II gaming under the federal Indian
20 Gaming Regulatory Act as of January 1, 2002; and

21 (b) Interdiction gaming zone means an area of the state
22 that lies within two miles of an adjoining state which allows
23 gaming, except that (i) no such zone may contain lands within the
24 limits of a federally recognized Indian tribe's Indian reservation
25 in Nebraska recognized as of October 1988, or real property in Knox
26 County and Boyd County held by the Secretary of the Interior in
27 trust for the benefit of the Ponca Tribe, and (ii) if an adjoining
1 state no longer has gaming conducted in its jurisdiction for ten
2 years, the interdiction gaming zone or gaming in such portion of
3 the zone that adjoins such state shall be discontinued.

4 (6) Except if an agreement is reached under subsection
5 (7) of this section, nothing in the statutes or Constitution of
6 Nebraska shall be construed to prohibit or restrict gaming operated
7 by a federally recognized Indian tribe in Nebraska on lands within

8 the limits of the tribe's Indian reservation recognized as of
9 October 1988, or on real property in Knox County and Boyd County
10 held by the Secretary of the Interior in trust for the benefit of
11 the Ponca Tribe, and over which the tribe has jurisdiction when
12 such gaming is conducted in accordance with federal law.

13 (7) Nothing in the Constitution of Nebraska shall be
14 construed to prohibit or restrict gaming as authorized in this
15 section in an interdiction gaming zone created by the Legislature
16 pursuant to this subsection. The Legislature may make laws
17 creating one interdiction gaming zone and authorizing up to five
18 gaming facilities within the zone. The Legislature may provide for
19 regulation and taxation of gaming activities in the interdiction
20 gaming zone. Any such gaming activities shall be operated by the
21 State of Nebraska or one or more federally recognized Indian tribes
22 in Nebraska. The Legislature may grant one or more federally
23 recognized Indian tribes in Nebraska the authority to conduct
24 gaming activities in one or more facilities within the interdiction
25 gaming zone if the tribe or tribes agree not to conduct gaming
26 activities on the reservation land of the tribe or tribes in
1 Nebraska or upon land in Knox County or Boyd County held by the
2 Secretary of the Interior in trust for the benefit of the Ponca
3 Tribe."

3 Sec. 2. The proposed amendment shall be submitted to the
4 electors in the manner prescribed by the Constitution of Nebraska,
5 Article XVI, section 1, with the following ballot language:

6 "A constitutional amendment to define gaming, to
7 authorize creation of an interdiction gaming zone, and to
8 permit gaming on Indian lands and in the interdiction
9 gaming zone.

10 For

11 Against".

Senator Bruning asked unanimous consent to be excused until he returns.
No objections. So ordered.

Senator Janssen offered the following amendment to the Beutler pending
amendment:

FA860

Amend AM2819

On page 3, line 1 strike "ten" and insert "two."

SENATOR COORDSEN PRESIDING

Senator Janssen withdrew his amendment.

Senator Schrock offered the following amendment to the Beutler pending
amendment:

FA861

Amend AM2819

On page 3, line 1 strike "ten" and insert "5"

SPEAKER KRISTENSEN PRESIDING

The Schrock amendment was adopted with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

Senator Janssen offered the following amendment to the Beutler pending amendment:

AM2825

(Amendments to AM2819)

- 1 1. On page 2, line 9, after "enclosure" insert "and the
- 2 enactment of laws providing for the licensing and regulation of the
- 3 operation of slot machines within any licensed racetrack enclosure
- 4 which was in operation on January 1, 2002."
- 5 2. On page 4, line 6, after "amendment" insert "to
- 6 authorize slot machines within licensed racetrack enclosures,".

Pending.

STANDING COMMITTEE REPORTS

General Affairs

LEGISLATIVE RESOLUTION 292CA. Placed on General File as amended.

Standing Committee amendment to LR 292CA:

AM2799

- 1 1. Strike original sections 1 and 2 and insert the
- 2 following new sections:
- 3 "Section 1. At the general election in November 2002 the
- 4 following proposed amendment to the Constitution of Nebraska shall
- 5 be submitted to the electors of the State of Nebraska for approval
- 6 or rejection:
- 7 To amend Article III, section 24:
- 8 III-24 "(1) Except as provided in this section, the
- 9 Legislature shall not authorize any game of chance or any lottery
- 10 or gift enterprise when the consideration for a chance to
- 11 participate involves the payment of money for the purchase of
- 12 property, services, or a chance or admission ticket or requires an
- 13 expenditure of substantial effort or time.
- 14 (2) The Legislature may authorize and regulate a state
- 15 lottery pursuant to subsection (3) of this section and other
- 16 lotteries, raffles, and gift enterprises which are intended solely
- 17 as business promotions or the proceeds of which are to be used
- 18 solely for charitable or community betterment purposes without
- 19 profit to the promoter of such lotteries, raffles, or gift
- 20 enterprises.
- 21 (3) The Legislature may establish a lottery to be
- 22 operated and regulated by the State of Nebraska. The proceeds of

23 the lottery shall be appropriated by the Legislature for the costs
24 of establishing and maintaining the lottery and for other purposes
1 as directed by the Legislature. No lottery game shall be conducted
2 as part of the lottery unless the type of game has been approved by
3 a majority of the members of the Legislature.

4 (4) Nothing in this section shall be construed to
5 prohibit (a) the enactment of laws providing for the licensing and
6 regulation of wagering on the results of horseraces, wherever run,
7 either within or outside of the state, by the parimutuel method,
8 when such wagering is conducted by licensees within a licensed
9 racetrack enclosure and the enactment of laws providing for the
10 licensing and regulation of the operation of slot machines within
11 any licensed racetrack enclosure which was in operation on January
12 1, 2002, or (b) the enactment of laws providing for the licensing
13 and regulation of bingo games conducted by nonprofit associations
14 which have been in existence for a period of five years immediately
15 preceding the application for license, except that bingo games
16 cannot be conducted by agents or lessees of such associations on a
17 percentage basis.

18 (5) For purposes of this section:

19 (a) Gaming means any game of chance played with cards,
20 dice, equipment, or a machine for money, credit, or any
21 representative of value if the game is not included within the
22 definition of Class I or Class II gaming under the federal Indian
23 Gaming Regulatory Act as of January 1, 2002; and

24 (b) Interdiction gaming zone means an area of the state
25 that lies within two miles of an adjoining state which allows
26 gaming, except that (i) no such zone may contain lands within the
27 limits of a federally recognized Indian tribe's Indian reservation
1 in Nebraska recognized as of October 1988, or real property in Knox
2 County and Boyd County held by the Secretary of the Interior in
3 trust for the benefit of the Ponca Tribe, and (ii) if an adjoining
4 state no longer has gaming conducted in its jurisdiction for two
5 years, the interdiction gaming zone or gaming in such portion of
6 the zone that adjoins such state shall be discontinued.

7 (6) Except if an agreement is reached under subsection

8 (7) of this section, nothing in the statutes or Constitution of
9 Nebraska shall be construed to prohibit or restrict gaming operated
10 by a federally recognized Indian tribe in Nebraska on lands within
11 the limits of the tribe's Indian reservation recognized as of
12 October 1988, or on real property in Knox County and Boyd County
13 held by the Secretary of the Interior in trust for the benefit of
14 the Ponca Tribe, and over which the tribe has jurisdiction when
15 such gaming is conducted in accordance with federal law.

16 (7) Nothing in the Constitution of Nebraska shall be
17 construed to prohibit or restrict gaming as authorized in this
18 section in an interdiction gaming zone created by the Legislature
19 pursuant to this subsection. The Legislature may make laws
20 creating one interdiction gaming zone and authorizing up to five

21 gaming facilities within the zone. The Legislature may provide for
 22 regulation and taxation of gaming activities in the interdiction
 23 gaming zone. Any such gaming activities shall be operated by the
 24 State of Nebraska or one or more federally recognized Indian tribes
 25 in Nebraska. The Legislature may grant one or more federally
 26 recognized Indian tribes in Nebraska the authority to conduct
 27 gaming activities in one or more facilities within the interdiction
 1 gaming zone if the tribe or tribes agree not to conduct gaming
 2 activities on the reservation land of the tribe or tribes in
 3 Nebraska or upon land in Knox County or Boyd County held by the
 4 Secretary of the Interior in trust for the benefit of the Ponca
 5 Tribe."
 6 Sec. 2. The proposed amendment shall be submitted to the
 7 electors in the manner prescribed by the Constitution of Nebraska,
 8 Article XVI, section 1, with the following ballot language:
 9 "A constitutional amendment to authorize slot machines
 10 within licensed racetrack enclosures, to define gaming,
 11 to authorize creation of an interdiction gaming zone, and
 12 to permit gaming on Indian lands and in the interdiction
 13 gaming zone.
 14 For
 15 Against".

(Signed) Ray Janssen, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 986. Indefinitely postponed.

(Signed) David M. Landis, Chairperson

Education

LEGISLATIVE BILL 532. Indefinitely postponed.

LEGISLATIVE BILL 654. Indefinitely postponed.

LEGISLATIVE BILL 1253. Indefinitely postponed.

(Signed) Ron Raikes, Chairperson

Agriculture

The Agriculture Committee desires to report favorably upon the appointment(s) listed below. The Committee suggests the appointment(s) be confirmed by the Legislature and suggests a record vote.

Dry Bean Commission
 Kenneth L. Rhoades

VOTE: Aye: Senators Burling, Chambers, Cunningham, Dierks, Erdman,

Schimek, Schrock, and Vrtiska. Nay: None. Absent: None.

(Signed) Merton L. Dierks, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 297. Introduced by Robak, 22.

WHEREAS, Matt Bates of Columbus High School won the Class A 171-pound state championship match at the 2002 State Wrestling Tournament; and

WHEREAS, Bates finished the season with a 37-2 record and was ranked No. 1 at 171 pounds in the Nebraska Scholastic Wrestling Coaches Association ratings; and

WHEREAS, Bates became the twenty-first wrestler at Columbus High School to win a state championship; and

WHEREAS, the Legislature should recognize the academic, athletic, and artistic achievements of the youth of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature recognizes and congratulates Matt Bates on winning the Class A 171-pound state wrestling championship.

2. That a copy of this resolution be sent to Matt Bates.

Laid over.

AMENDMENTS - Print in Journal

Senator Wickersham filed the following amendment to LB 1003:
AM2781

(Amendments to Standing Committee amendments, AM2691)

- 1 1. Insert the following new section:
- 2 "Section 18. Section 37-608, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 37-608. Any law enforcement official, including any
- 5 conservation officer, may enforce sections 37-305 to 37-313, ~~and~~
- 6 the rules and regulations established under the authority of
- 7 sections 60-680 and 60-6,190, and federal orders restricting access
- 8 to federal lands under a memorandum of understanding or cooperative
- 9 agreement with a federal agency. When a violation has occurred in
- 10 or on any area under the ownership or control of the commission or
- 11 federal lands as authorized under this section, any conservation
- 12 officer may arrest and detain any person committing such violation
- 13 or committing any misdemeanor or felony as provided by the laws of
- 14 this state or federal orders as authorized under this section until
- 15 a legal warrant can be obtained."
- 16 2. Renumber the remaining sections and correct the
- 17 repealer accordingly.

Senator Coordsen filed the following amendment to LB 600:
AM2812

(Amendments to Standing Committee amendments, AM1916)

- 1 1. Strike sections 11 and 12 and insert the following
- 2 new sections:
- 3 "Sec. 11. (1) Valuations shall be established for land
- 4 devoted primarily to agricultural and horticultural use upon the
- 5 basis of the agricultural or horticultural income or productivity
- 6 attributable to the inherent capabilities of such land in its
- 7 current usage under a degree of management reflecting average
- 8 production levels for the subclasses, less the average expenses
- 9 normally incurred by a landlord and capitalized at the
- 10 capitalization rate as determined under section 14 of this act.
- 11 The average valuation in each county for each land subclass
- 12 determined from this process shall be weighted and distributed
- 13 across the land capability groups to determine a valuation for each
- 14 parcel of land devoted to agricultural and horticultural use.
- 15 (2) The data required for valuing agricultural and
- 16 horticultural land shall be provided by the following sources or
- 17 other local, state, or federal agencies, or as that determined by
- 18 the Property Tax Administrator under the advisement of the
- 19 Agricultural Land Use Advisory Committee:
- 20 (a) Productivity is the estimate established by each soil
- 21 type as published by the United States Department of Agriculture
- 22 Natural Resources Conservation Service; and
- 23 (b) Average cropping patterns, crop yields, and crop
- 1 prices by county shall be obtained from the Nebraska Crop and
- 2 Livestock Reporting Service or as published by other state or
- 3 federal agencies. Crop price information shall include federal
- 4 support information derived from United States Department of
- 5 Agriculture statistics per county. The cropping pattern shall
- 6 include, as data is available, but shall not be limited to, the
- 7 following crops: Continuous cropland wheat; summer fallow wheat;
- 8 corn for grain; dry beans; sorghum for grain; sugar beets; soybeans
- 9 for beans; oats; and alfalfa.
- 10 (3) The Property Tax Administrator under the advisement
- 11 of the Agricultural Land Use Advisory Committee shall determine the
- 12 sources to use, which may include the Department of Agricultural
- 13 Economics of the University of Nebraska, to do the following:
- 14 (a) Perform surveys if information is not available to
- 15 determine the typical leasing arrangements, the typical rent, and
- 16 the typical expenses for each land subclass and each county;
- 17 (b) Compile the data for the average cropping patterns,
- 18 crop yields, and crop prices by county from the sources as
- 19 designated by the Property Tax Administrator;
- 20 (c) Compute the three-year average typical landlord share
- 21 as provided for under subsection (4) of this section;
- 22 (d) Compute the average weighted valuation by land
- 23 subclass for each county, adjusted by eighty percent;

24 (e) When the county assessor has predetermined that cash
25 rent is the prevalent leasing arrangement, attribute an average
26 cash rental value to each land capability group in a county and
27 verify that the total rental value, when summing across all land
1 capability groups in a land subclass, equals the total value for
2 the land subclass as calculated by multiplying the weighted cash
3 rental value by total acres in that land subclass;

4 (f) Distribute the adjusted weighted average across the
5 land capability groups for each land subclass and verify that the
6 total valuation for the county remains unchanged after the
7 distribution; and

8 (g) Provide a report of valuations by county to the
9 Property Tax Administrator.

10 (4) When the county assessor determines crop share
11 leasing is the prevalent leasing arrangement for dry or irrigated
12 cropland in a county, the typical net landlord income shall be
13 determined as follows:

14 (a) Gross receipts by land capability group shall be
15 determined by multiplying the most recent three-year average crop
16 prices by the most recent three-year average crop yield weighting
17 the result by the most recent three-year average cropping pattern;

18 (b) Landlord income shall be computed by multiplying the
19 three-year average gross receipts by landlord share; and

20 (c) Net landlord income shall be computed by subtracting
21 from landlord income expenses normally incurred by a landlord.

22 (5) The net earning or productive capacity for grassland
23 shall be computed as follows: (a) By multiplying the carrying
24 capacity in terms of animal unit months by the typical rental value
25 per animal unit month; or (b) by forage production, less landlord
26 expenses paid by the landlord. Carrying capacity and forage
27 production, by land subclass, shall be based on productivity

1 estimates by each soil type, published by the United States
2 Department of Agriculture Natural Resources Conservation Service or
3 other state or federal agencies and as selected and applied by the
4 Property Tax Administrator after consultation with and advisement
5 from the Agricultural Land Use Advisory Committee. Rental value
6 per animal unit month shall be based on the most recent three-year
7 average as published by local, state, federal, or other agencies or
8 developed from surveys performed by or for the Department of
9 Property Assessment and Taxation. Landlord expenses shall be
10 computed based on the typical leasing arrangements as determined
11 from surveys conducted or authorized by the Department of Property
12 Assessment and Taxation or as published by other state or federal
13 agencies and as selected and applied by the Property Tax
14 Administrator after consultation with and advisement from the
15 Agricultural Land Use Advisory Committee.

16 For counties or land subclasses for which
17 animal-unit-month data is not available, the income stream shall be
18 computed by using the average of the most recent three-year

19 prevailing cash rental rates per acre less the typical landlord
 20 expenses. The annual prevailing cash rental rates per acre shall
 21 be based on data developed by the Department of Agricultural
 22 Economics of the University of Nebraska or as published by other
 23 state or federal agencies and as selected and applied by the
 24 Property Tax Administrator after consultation with and advisement
 25 from the Agricultural Land Use Advisory Committee.
 26 (6) The land portion of farm sites shall be assessed at
 27 the same value as the average of all the land capability groups in
 1 the parcel.
 2 (7) Wasteland shall be assessed at ten percent of the
 3 lowest assessed land capability group in the county.
 4 (8) When making the computations prescribed in this
 5 section, the same three-year period shall be used.
 6 Sec. 12. The agricultural and horticultural use value
 7 for each land capability group shall be calculated by dividing the
 8 net landlord income determined under section 11 of this act by the
 9 capitalization rate set in section 14 of this act. The value for a
 10 parcel of land shall be computed by summing the values and acres of
 11 land in each land capability group for the parcel. The
 12 agricultural and horticultural use value placed on such land by the
 13 county assessor shall be subject to equalization by the county
 14 board of equalization and the Tax Equalization and Review
 15 Commission."
 16 2. On page 3, line 21, strike "2002" and insert "2003";
 17 and in line 27 strike "2003" and insert "2004".
 18 3. On page 6, strike lines 2 through 6; in line 7 strike
 19 "(6)" and insert "(5)"; in line 12 strike "(7)" and insert "(6)";
 20 in line 17 strike "(8)" and insert "(7)"; in line 21 strike "(9)"
 21 and insert "(8)"; and after line 25 insert the following new
 22 subdivision:
 23 "(9) Landlord share means that share of the net income
 24 normally received by the landlord from the productivity of the land
 25 based on the most predominant crops and computed using the most
 26 frequently occurring arrangement in the county. Crop-share or
 27 cash-rent method shall be used as the basis for determining income.
 1 Under a crop-share arrangement, landlord share means the landlord
 2 return under crop-share leases expressed as a percentage of gross
 3 receipts attributable to the land. Landlord return means gross
 4 receipts less typical input costs incurred by a landlord under a
 5 crop-share lease. Under a cash-rent arrangement, landlord share is
 6 the cash rent."
 7 4. On page 7, line 1, strike "property taxes" and insert
 8 "prorated conservation expenses."; in line 2 after the last comma
 9 insert "reserves for replacement."; after line 10 insert the
 10 following new subdivision:
 11 "(12) Reserves for replacement means the expense
 12 associated with the irrigation well and casing, underground
 13 transmission line, storage reservoirs, concrete ditches, permanent

- 14 set sprinkler, drip irrigation systems, and fences and similar
 15 equipment or parts that will reach the end of their economic life
 16 before the end of the life of the land. Reserves for replacement
 17 does not include other necessary irrigation equipment, such as
 18 pumps, gearheads, and motors, and side-roll or center-pivot
 19 sprinkler systems typically considered personal property."; in line
 20 11 strike "(12)" and insert "(13)"; and in line 17 strike "(13)"
 21 and insert "(14)".
- 22 5. On page 10, line 4, strike "categories" and insert
 23 "land subclasses"; in line 6 strike "Categories" and insert "Land
 24 subclasses"; in line 7 strike the first "subclasses" and insert
 25 "capability groups" and after the second "subclasses" insert "or
 26 land capability groups"; in line 12 strike "category" and insert
 27 "land subclass"; and in line 18 after "subclasses" insert "and land
 1 capability groups".
- 2 6. On page 11, line 2, after "(5)" insert "County
 3 assessors shall determine which method, crop share or cash rent,
 4 most nearly reflects the prevalent leasing arrangement by land
 5 subclass in the county. The method determined by the county
 6 assessor shall be reported to the Property Tax Administrator by
 7 January 1, 2003, and shall not be changed without a showing that
 8 the change in method most nearly reflects the use in the land
 9 subclass.
 10 (6)".
- 11 7. On page 15, line 12, strike "categories" and insert
 12 "land subclasses"; in line 16 strike "category or land subclass"
 13 and insert "land subclasses or land capability groups"; and in line
 14 20 after "percent" insert "plus the county average property tax
 15 levy on agricultural and horticultural land. The Agricultural Land
 16 Use Advisory Committee may add an economic component of not greater
 17 than three percent on an annual basis if needed to establish
 18 income-based valuations reflective of the agricultural economic
 19 conditions".
- 20 8. On page 20, line 6, strike "2002" and insert "2003";
 21 and in line 22 strike "2003" and insert "2004".
- 22 9. On page 21, line 27, strike "2003" and insert "2004".
- 23 10. On page 22, line 3, after the period insert
 24 "Beginning January 1, 2004, for agricultural land and horticultural
 25 land, the acceptable range shall be from ninety-two percent to one
 26 hundred percent of agricultural and horticultural use valuation.".
- 27 11. On page 25, strike beginning with "Sections" in line
 1 16 through line 17 and insert "This act becomes".
- 2 12. Renumber the remaining sections and correct internal
 3 references accordingly.

ANNOUNCEMENTS

Senator Schrock designates LB 1006 as his priority bill.

Senator Kristensen designates LB 898 as his priority bill.

UNANIMOUS CONSENT - Add Cointroducer

Senator Preister asked unanimous consent to have his name added as cointroducer to LB 1148. No objections. So ordered.

VISITORS

Visitors to the Chamber were Jeff Schelkopf from Sutton; and students from Columbus, Elkhorn, Imperial, Papillion, and Plattsmouth.

ADJOURNMENT

At 11:58 a.m., on a motion by Senator Redfield, the Legislature adjourned until 9:00 a.m., Thursday, February 21, 2002.

Patrick J. O'Donnell
Clerk of the Legislature

